

NINETEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
First Regular Session)



'22 AUG 25 P 4 :12

SENATE

S. No. 1228

RECEIVED BY

Introduced by Senator Jinggoy Ejercito Estrada

AN ACT
STRENGTHENING THE EMPLOYMENT RIGHTS FOR MEMBERS OF THE
CITIZEN ARMED FORCES OR THE RESERVE FORCE OF THE ARMED FORCES
OF THE PHILIPPINES AND FOR OTHER PURPOSES

EXPLANATORY NOTE

In many countries, there are established policies which safeguard the rights of their reservists to their employment. For instance, in United Kingdom, reservists who have a liability to be mobilized are protected against unfair dismissal, as it is a criminal offense for an employer to terminate a reservist's job without their consent solely or mainly because one has a liability to be mobilized¹. Legislation also provides them with legal right to be reinstated to their former job, subject to certain conditions².

In Australia, reservists are also protected in their civilian workplace from discrimination, disadvantage or dismissal for reasons associated with their Defence service³. US government also guarantees an employee returning from military service or training the right to be reemployed at one's former job (or as nearly comparable a job as possible) with the same benefits⁴.

¹ Guidance: Reservist employer toolkit (updated May 14, 2021). Retrieved from <https://www.gov.uk/government/publications/reservist-employers-toolkit/reservist-employer-toolkit>

² Ibid.

³ Defence Reservists: rights and responsibilities at work. Retrieved from <https://www.fairwork.gov.au/sites/default/files/migration/723/Defence-reservists-rights-and-responsibilities-at-work.pdf>

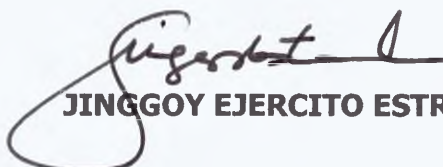
⁴ A Guide to the Uniformed Services Employment and Reemployment Rights Act. Retrieved from <https://www.dol.gov/agencies/vets/programs/userra/USERRA-Pocket-Guide#ch19>

This proposed measure intends to provide the same level of protection and support to our reserve force in recognition of their important contribution to nation-building, and in honor of their selflessness in offering their precious time, skills and service to the country. Our reservists have been instrumental in the success of many campaigns of the Armed Forces, often in humanitarian and emergency socio-civic outreach missions. They were among the first to be deployed during rescue and relief operations upon the onslaught of disasters and natural calamities, as well as in subsequent community rehabilitation efforts.

This measure also aims to encourage more Filipinos to become part of the Reserve Force by reducing the disadvantages to civilian and professional careers, in private or public sectors, which can result from rendering military service. In a way, the bill reinforces the reserve force as a crucial component of the national defense and security organization. Currently, there are 1.2 million members of the Reserve Force from all over the country⁵.

This bill was already approved on Third and Final Reading by the Senate during the Seventeenth Congress, but remained pending before the House of Representatives.

The immediate passage of this legislation is earnestly sought.



JINGGOY EJERCITO ESTRADA

⁵ TSN. Organizational meeting of the Senate Committee on National Defense and Security, Peace, Unification and Reconciliation, August 10, 2022. Page 54.

NINETEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
First Regular Session)



'22 AUG 25 P 4 :12

SENATE
S. No. 1228

RECEIVED BY: 

Introduced by Senator Jinggoy Ejercito Estrada

**AN ACT
STRENGTHENING THE EMPLOYMENT RIGHTS FOR MEMBERS OF THE
CITIZEN ARMED FORCES OR THE RESERVE FORCE OF THE ARMED FORCES
OF THE PHILIPPINES AND FOR OTHER PURPOSES**

*Be it enacted by the Senate and House of Representatives of the Philippines in
Congress assembled:*

CHAPTER 1

GENERAL PROVISIONS

1
2
3 Section 1. *Short Title.* – This Act shall be known as the "*Reservist*
4 *Employment Rights Act*".

5 Sec. 2. *Declaration of Policy.* – It is hereby declared a policy of the State to:

- 6 a) Strengthen the Citizen Armed Forces or the Reserve Force of the Armed
7 Forces of the Philippines (AFP) and recognize its role in the mission areas
8 of the AFP and in national security;
- 9 b) Protect the rights of reservists, and prevent and prohibit discrimination on
10 the basis of rendering military service to the State;
- 11 c) Encourage service in the AFP Reserve Force by eliminating or minimizing
12 the disadvantages to civilian careers and employment which can result
13 from rendering military service to the State; and
- 14 d) Ensure the observance of all employers of the rights of reservists called to
15 perform military service to the State, while the overall operation of their
16 organization is not severely prejudiced.

1 The prime duty of the State is to serve and protect the people. For this
2 reason, the State may call upon the people to defend the State, and in fulfillment
3 thereof, may require its citizens to render military or civil service under conditions
4 provided by law.

5 Sec. 3. *Coverage.* – The provisions of this Act shall apply to all employers,
6 whether private or public, including all government agencies and political
7 subdivisions as well as government-owned and/or –controlled corporations and their
8 subsidiaries, nongovernment organizations, and other socioeconomic entities.

9 Sec. 4. *Definition of Terms.* – As used in this Act, the following terms shall
10 mean:

- 11 a) *Active Duty Training* – the compulsory or voluntary trainings for reserve
12 units and/or individual reservists provided by the AFP to update their
13 working knowledge in the current military organization, doctrines, and in
14 tactics, techniques and procedures or TTPs, in order to maintain a
15 desirable state of readiness, enable them to satisfy the active service-in-
16 grade required for promotion to higher grades, and maintain a level of
17 proficiency and competency for those reservists designated as instructors
18 in Reserve Officers’ Training Corps (ROTC) and other reservist training
19 programs;
- 20 b) *Auxiliary Service* – the voluntary performance of a service by reservists for
21 the purpose of helping maintain local peace and order, meeting local
22 insurgency and terror threats for intelligence requirements, assisting in
23 rescue and relief operations during disasters and calamities, health welfare
24 activities and participating in local socioeconomic development projects;
- 25 c) *Citizen Soldiers or Reservists* – members of the Reserve Force of the AFP
26 composed of the following:
- 27 1) Graduates of the ROTC basic and advance courses and who were
28 issued orders as enlisted reservists or reserve officers of the AFP;
- 29 2) Graduates of authorized basic military training instructions who, as a
30 result thereof, were issued orders as enlisted reservists or reserve
31 officers;

1 3) Ex-servicemen and retired officers of the AFP who have been
2 integrated into the Reserve Force of the AFP; and

3 4) Reservist officers and enlisted reservists including those procured
4 under existing laws and included in the present AFP roster.

5 There shall be three (3) categories of citizen soldiers or AFP reservists:
6 The First Category Reserve, the Second Category Reserve, and the Third
7 Category Reserve based on age.

8 1) First Category Reserve – shall be composed of able-bodied reservists
9 whose ages are between eighteen (18) years and thirty-five (35) years,
10 inclusive.

11 2) Second Category Reserve – shall be composed of able-bodied
12 reservists whose ages are between thirty-six (36) and fifty-one (51),
13 inclusive.

14 3) Third Category Reserve – shall be composed of able-bodied reservists
15 who are above fifty-one (51) years of age.

16 Based on the categorization above, the Reserve Force units shall
17 further be classified into the Ready Reserve, the Standby Reserve, and
18 the Retired Reserve based on their operational readiness for immediate
19 deployment/utilization.

20 d) *Employment* – the act of hiring and continued engagement including the
21 reintegration of an employee called to military service to one's former
22 position, or if not practicable, to a substantially equivalent position,
23 without loss of seniority rights and diminution of pay;

24 e) *Military service* – any service rendered by a citizen soldier or reservist to
25 the State upon orders of the AFP or call to active duty (CAD) to meet
26 active duty training (ADT) requirements, or for any purpose that the AFP
27 leadership may deem necessary in order to augment and support the
28 Regular Force operations in times of war, national emergency or such
29 other times as the national security requires;

30 f) *Mobilization* – the utilization of the Reserve Force of the AFP in times of
31 emergency to meet threats to national security;

1 g) *Reintegration* – the actual resumption of work of an employee after one’s
2 military service to one’s former position, or if not practicable, to a
3 substantially equivalent position, without loss of seniority rights and
4 diminution of pay;

5 h) *Reserve Force* – those composing of members of the reserve components
6 of the AFP;

7 i) *Ready Reserve* – citizen soldiers or reservists belonging mostly to the First
8 Category reserve, who shall be organized, trained and maintained as
9 mobilizable ready reserve subject to being called at any time to augment
10 the regular armed force of the AFP not only in times of war or national
11 emergency but also to meet local emergencies arising from calamities,
12 disasters, and threats to peace, order, security, and stability in any
13 locality, including the need to provide assistance in relief and rescue work
14 and other civil assistance activities;

15 Furthermore, members of the AFP Affiliated Reserve units of various
16 government and private utilities and services considered essential for the
17 preservation of economic stability of the country or particular locality, such
18 as power and electricity, water supply, transportation and
19 communications, among others, regardless of their categorization shall be
20 classified as Ready Reserve;

21 All citizen soldiers belonging to the First Category Reserve, except those
22 exempted under Republic Act No. 7077, otherwise known as the “Citizen
23 Armed Forces of the Philippines Reservist Act”, and other pertinent
24 policies, shall be required to serve with the Ready Reserve units and will
25 have assignments and promotions in accordance with existing policies of
26 the AFP until transferred to the Standby Reserve by virtue of their age;

27 j) *Standby Reserve* – citizen soldiers or reservists belonging mostly to the
28 Second Category Reserve and the Third Category Reserve. The members
29 of the Standby Reserve shall be organized and assigned to specific reserve
30 units and shall be maintained through annual assembly test to update
31 their records and present addresses, among others. The Standby Reserve
32 may be mobilized or ordered to active duty only in times of national

1 emergency or war. The ranks of the members of the Standby Reserve may
2 be upgraded if they voluntarily participate in training or serve with the
3 Ready Reserve units in their areas or if their Standby Reserve unit
4 undergoes retaining. They will however be encouraged to upgrade their
5 military knowledge and skills by taking up non-resident or resident courses
6 which shall be set up for the purpose; and

- 7 k) *Retired Reserve* – citizen soldiers who have qualified for retirement
8 through length of service, old age or disability. For this purpose, sixty-five
9 (65) years shall be considered as the retirement age. However, if qualified
10 and fit for duty, a member of the Retired Reserve may be ordered to
11 active duty in times of local or national emergencies if one volunteers for
12 active duty and when the Secretary of National Defense determines that
13 there are not enough qualified citizen soldiers with one’s special skills and
14 qualifications in the Ready Reserve or Standby Reserve in one’s particular
15 area of residence.

16 **CHAPTER 2**

17 **NON-DISCRIMINATION OF RESERVISTS**

18 *Sec. 5. Anti-Reservist Discrimination and Prohibited Acts. –*

- 19 a) It shall be unlawful for an employer, or those acting in the interest of the
20 employer, whether private or public, including all government agencies
21 and political subdivisions, as well as government-owned and/or controlled
22 corporations and their subsidiaries, nongovernment organizations, and
23 other socioeconomic entities to:
- 24 1) Discriminate against an individual in terms of compensation, terms and
25 conditions, or privileges of employment on account of such individual’s
26 membership, application for membership, performance of military
27 service, application for military service or obligation with the Reserve
28 Force of the AFP;
 - 29 2) Print or publish, or cause to be printed or published, in any form of
30 media, including the internet, any notice of advertisement relating to
31 employment suggesting preferences, limitations, specifications, and
32 discrimination based on membership, application for membership,

- 1 performance of military service, application for military service or
2 obligation with the Reserve Force of the AFP;
- 3 3) Require the declaration of application for membership, or status of
4 membership in the Reserve Force of the AFP;
- 5 4) Decline employment on the basis of membership in the Reserve Force
6 of the AFP;
- 7 5) Deny any employee's or worker's promotion or opportunity for training
8 on the basis of membership, application for membership, performance
9 of military service, application for military service or obligation with the
10 Reserve Force of the AFP;
- 11 6) Lay off an employee or worker because of membership, application for
12 membership, performance of military service, application for military
13 service or obligation with the Reserve Force of the AFP; or
- 14 7) Impose early retirement on the basis of such employee's or worker's
15 membership, application for membership, performance of military
16 service, application for military service or obligation with the Reserve
17 Force of the AFP.
- 18 b) It shall be unlawful for a labor contractor or subcontractor, if any, to
19 refuse to refer for employment or otherwise discriminate against any
20 individual because of such person's membership, application for
21 membership, performance of military service, application for military
22 service or obligation with the Reserve Force of the AFP;
- 23 c) It shall be unlawful for any organization to:
- 24 1) Deny membership to any individual because of such person's
25 membership, application for membership, performance of military
26 service, application for military service or obligation with the Reserve
27 Force of the AFP;
- 28 2) Exclude from its membership any individual because of such person's
29 membership, application for membership, performance of military
30 service, application for military service or obligation with the Reserve
31 Force of the AFP; or

1 *Sec. 8. Reintegration Duty of an Employer.* – It shall be the duty of the
2 employer, or those acting in the interest of the employer, to reintegrate reservists
3 returning from military service to their former position, or when not practicable to a
4 substantially equivalent position, without loss of seniority rights and diminution of
5 their pay.

6 *Sec. 9. Conditions for Reintegration of Reservists.* – Reservists shall be
7 entitled to reintegration as provided in Section 8 of this Act, subject to the following
8 conditions:

- 9 a) The reservist has rendered or performed military service as a member of
10 the Reserve Force of the AFP;
- 11 b) The employer, or those acting in the interest of the employer, has been
12 given a written notice by the AFP or the reservist, which if practicable,
13 shall indicate the duration of military service, at least thirty (30) days prior
14 to departing for military service unless precluded by military necessity,
15 except when under all of the relevant circumstances, the timely provision
16 of notice is otherwise impossible or unreasonable;
- 17 c) The employer, or those acting in the interest of the employer, shall
18 immediately reintegrate the reservist after the latter is officially discharged
19 from military service in accordance with the notice issued by the AFP; and
- 20 d) The employer, or those acting in the interest of the employer, shall
21 provide its reservist employee the prevailing salary or wage at the time of
22 reintegration of the reservist.

23 In a timely manner, the AFP shall issue and provide the pertinent notices and
24 documents to reservists and their employers, and those acting in the interest of the
25 employers, to facilitate the reintegration of the reservists to their employment.

26 *Sec. 10. Period to Notify of Intent to Return.* – Reservists are hereby required
27 to notify their employers, or those acting in the interest of the employer, of their
28 intent to return to work subject to the following circumstances and conditions:

- 29 a) In the case of reservists called to military service for a definite period
30 when indicated in the call for active duty training or such other notice
31 issued by the AFP, the employer, or those acting in the interest of the
32 employer, shall be deemed notified of the intent to return when furnished

1 a copy of the pertinent notice from the AFP prior to the absence of the
2 reservist for military service;

3 b) In the case of reservists called to military service for an indefinite period
4 when not indicated in the call for active duty training or such other notices
5 issued by the AFP, the employer, or those acting in the interest of the
6 employer, shall be deemed notified of the intent to return when furnished
7 a copy of the pertinent notice from the AFP indicating the impending
8 discharge of reservists at least fifteen (15) days prior to the end of the
9 military service: *Provided*, That the reservists shall not be deemed
10 ineligible when circumstances do not permit the timely prior notification of
11 absence due to military service and/or intent to return of a reservist in
12 compliance with this provision in accordance with Sections 9(b) and 9(d)
13 of this Act: *Provided, further*, That reservists who suffer from illness or
14 injury incurred in, or aggravated during, the performance of military
15 service shall be allowed to indicate their desire to return to their former
16 position within a reasonable time as prescribed by a military doctor:
17 *Provided, finally*, That the AFP shall ensure that its policies and
18 administrative processes, whenever practicable, allow for at least fifteen
19 (15) days prior notification of employers, or those acting in their interest,
20 of the absence of reservists for military service and their capacity and
21 intent to return to their employment.

22 Sec. 11. *Compensation for Non-Reintegration of Reservists.* – In cases of
23 authorized cases or circumstances, subject to the determination and approval of the
24 Department of Labor and Employment (DOLE), where reintegration is impossible or
25 unreasonable, the reservist shall be entitled to at least three (3) month's worth of
26 basic salary or to a separation pay equivalent to his or her one-month basic salary
27 per year of service, whichever is higher.

28 Sec. 12. *Compensation of Reservists for Military Service.* – In order to
29 enhance the general welfare, commitment to service and professionalism of the
30 members of the Reserve Force of the AFP, the reservist rendering military service
31 shall be entitled to the base pay commensurate to their rank consistent with their
32 counterpart in the regular force.

1 The mother agency of the reservist shall promptly pay and remit the reservist
2 employees' premium contributions, based on one's salary, during their absence due
3 to military service, whether to the Government Service Insurance System (GSIS),
4 Pag-IBIG, Philippine Health Insurance Corporation (PhilHealth), and all pertinent
5 contributions related to the employment, and shall not reflect any gap in
6 contributions in the records.

7 Reservists shall have the option to pay their Social Security System (SSS)
8 contributions as a voluntary paying SSS member to avoid any gap in their
9 contribution records and afford their full entitlement to SSS benefits in accordance
10 with existing guidelines.

11 The AFP shall establish the necessary administrative process to assist
12 reservists in the timely remittance of pertinent contributions, whether mandatory or
13 voluntary.

14 *Sec. 13. Multi-Stakeholder Engagement and Advocacies.* – The Department of
15 National Defense (DND) and the AFP shall strengthen coordination and cooperation
16 among stakeholders through a sustained and comprehensive advocacy campaign for
17 the purpose of ensuring that the employment rights of reservists are understood and
18 protected by all concerned.

19 For this purpose, the Department of Budget and Management (DBM), in
20 consultation with the DND and the AFP, shall create the necessary plantilla or non-
21 tenured positions. The necessary funds for the implementation of this provision shall
22 be included in the budget of the DND and AFP in the annual General Appropriations
23 Act.

24 *Sec. 14. Tax Benefits and Incentives.* – The Department of Finance (DOF), in
25 coordination with the DND, AFP and other appropriate government agencies, shall
26 develop the appropriate rules and regulations on the provision of tax benefits and
27 incentives based on justified costs and expenses by employers associated with
28 organizational adjustments borne out of the absence of reservists in an organization
29 in compliance with this Act, Republic Act No. 7077, and other appropriate laws, rules
30 and regulations.

31 *Sec. 15. Administrative Fines and Penalties.* – Violation of any of the provision
32 of this Act shall be punished with a fine of not less than Fifty thousand pesos

